



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable T. M. Trimble, First Assistant
State Superintendent of Public Instruction
Austin, Texas

Dear Sir:

Opinion Number O-5572

Re: Under the provisions of House
Bill No. 457, 48th Legislature,
may the County Superintendent
and Board of Trustees of Madison
County assume complete
control of a Negro School district
within that county?

We are in receipt of your communication of recent
date reading as follows:

"The County Superintendent and County Board
of Trustees of Madison County, acting under the
provisions of H. B. No. 457, enacted by the 48th
Legislature, have assumed complete control of a
Negro school district within that County.

"I would appreciate your opinion as to whether
the law referred to above gives the County Superintendent and County Board of Trustees of Madison County such authority."

We have ascertained from our conversation with you
how House Bill No. 457 was vetoed by the Governor and that
the contention is being made that because the Governor permitted the bill to remain on his desk for seventeen days

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without his signature or veto the bill became law by limitation and that his veto came too late.

We have examined a copy of the bill mentioned, the caption of which reads as follows:

"AN ACT providing for the control and management of the affairs of the Chappell Hill Independent School District in Madison County, Texas, to be vested in the County Board of School Trustees; providing that the control and management of said District shall hereafter be vested in the County Board of School Trustees to be exercised by it in the manner now authorized by existing laws; repealing all laws and parts of laws in conflict with this Act; and declaring an emergency."

This bill is clearly a local or special law since it applies to only one school district in the State of Texas.

Replying to your inquiry, it is our opinion that it is immaterial whether the Governor signed or vetoed the bill for the reason that it is unconstitutional because in violation of Article 3, Section 56, of the State Constitution, which provides that - "The Legislature shall not, except as otherwise provided in this Constitution, pass any local or special law regulating the affairs of * * * school districts." Prior to January 1, 1927, the Legislature was authorized by Article 7, Section 3, to provide for the formation of school districts by general or special law, and this was held to be an exception to Article 3, Section 56, supra, but the 1927 amendment to Section 3 of Article 7 authorized the Legislature to provide for the formation of school districts by general law, thereby destroying the only exception to the power of the Legislature to pass local or special laws regulating the affairs of school districts. County School Trustees of Orange County, et al., vs. District Trustees of Prairie View C. S. D. #8, 153 S. W. (2d) 434.

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It is our opinion that House Bill No. 457, enacted by the Forty-eighth Legislature, is absolutely void, and that the County Superintendent and County Board of Trustees of Madison County are not authorized to assume control of the Chappell Hill Independent School District, under authority of said Act.

Very truly yours

AUG 31, 1943

ATTORNEY GENERAL OF TEXAS

Gerald C. Nantz *C. F. Gibson*
ATTORNEY GENERAL OF TEXAS C. F. Gibson
Assistant

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